

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

July 8, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 11HD-035

HAWAII

Sale of Remnant to One Puako Bay Associates, LLC, Lalamilo, South Kohala,
Hawaii, Tax Map Key: (3) 6-9-001: portion of 015.

APPLICANT:

One Puako Bay Associates, LLC, a Hawaii limited liability company.

LEGAL REFERENCE:

Section 171-52, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Puako situated at Lalamilo, South Kohala, Hawaii,
identified by Tax Map Key: (3) 6-9-001: portion of 015, as shown on the attached map
labeled Exhibit A.

AREA:

Parcel Area:	545.025 acres.
Subject area of request:	.207 acres (9,000 square feet), more or less.

ZONING:

State Land Use District:	Urban
County of Hawaii CZO:	V-1.25 (Resort)

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES ____ NO x

CURRENT USE STATUS:

535.818 acres	Vacant/ unencumbered (located mauka of Puako Beach Road)
5.000 acres	Encumbered by Revocable Permit No. S-7404, to Richard Spiegel, dba: Volcano Island Honey Company for apiary operations. (located mauka of Puako Beach Road)
4.000 acres	Encumbered by Revocable Permit No. S-7447, to Volcano Island Honey Company LLC for apiary operations. (located mauka of Puako Beach Road)
.207 acres	Formerly encumbered by Revocable Permit No. S-7445, to Puako Bay Investors LLC for landscaping and maintenance purposes. (Subject of request, located makai of Puako Beach Road)

CONSIDERATION:

One-time lump sum payment of fair market value to be determined by independent or staff appraiser, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Not applicable. Subject lands are to be conveyed to abutting landowner(s) and will become privately owned land at that point.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>x</u>	NO
Registered business name confirmed:	YES <u>x</u>	NO
Applicant in good standing confirmed:	YES <u>x</u>	NO

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 2) Pay for an appraisal to determine the one-time payment of fair market value for the remnant;
- 3) Consolidate the remnant with the Applicant's abutting property through the County subdivision process;

REMARKS:

Pursuant to section 171-52, HRS, a remnant is defined as "a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics." The subject parcel has been determined to be a remnant by this definition for the following reasons:

In constructing the Kawaihae-Puako Beach Road, a remnant parcel was inadvertently created out from Parcel 15 of TMK: (3) 6-9-001. This remnant parcel, a triangular piece, consists of 9,000 square feet, located makai of the Kawaihae-Puako Beach Road fronting Applicant's property. This portion of Parcel 15 is within the State Land Use Urban District and is designated V-1.25 (Resort) under the County Zoning Ordinance. Development of the remnant piece is not feasible in keeping with the County of Hawaii, Planning Department's requirements for boundary setbacks of 20- feet for front & rear, and 8-foot sides. It further requires a minimum building area of 15, 000 square feet.

Applicant is the owner of parcels (3) 6-9-002: 001 (Parcel 1) and 002 (Parcel 2), as staff has confirmed through the County of Hawaii, Real Property Tax Office. There are no other abutting properties to the subject remnant parcel.

At its meeting of January 14, 2005, Item D-18, the Land Board approved the issuance of Revocable Permit No. S-7404 to Richard Spiegel, dba: Volcano Island Honey Company for apiary operation purposes. The revocable permit consists of 5-acres on the mauka side of Puako Beach Road.

At its meeting of September 14, 2008, Item D-4, the Land Board approved the issuance of Revocable Permit No. S-7447 to Richard Spiegel for apiary purposes. The revocable permit area consists of two 2-acre plots on the mauka side of Puako Beach Road.

At its meeting of November 14, 2008, Item D-10, the Board of Land and Natural Resources approved issuance of a revocable permit to Puako Bay Investors LLC (PBI), for landscaping and maintenance purposes, Lalamilo, South Kohala, Hawaii, Tax Map Key: (3) 6-9-01: portion of 15.

On November 30, 2010, PBI sold its interest in Parcels 1 and 2 to applicant One Puako Bay Associates, LLC. By letter dated February 7, 2011, PBI requested the cancellation of Revocable Permit No. S-7445. Applicant submitted its application dated March 30, 2011 requesting to purchase the remnant.

One Puako Bay Associates LLC, has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

To date there have not been any other applicants requesting use of the land.

Various governmental agencies and interest groups are being solicited for comments, and any responses will be addressed in the final submittal.

AGENCIES	COMMENTS
County of Hawaii:	
Planning	No objections
Public Works	No response
State of Hawaii:	
DLNR-DOBOR	No response
DLNR-DOFAW	No response
DLNR-Historic Preservation	No response
DLNR-Na Ala Hele	No response
DLNR-OCCL	No response
Other Agencies/ Interest Groups:	
Office of Hawaiian Affairs	No response
Puako Community Association	No response


RECOMMENDATION: That the Board:


1. Find that the subject lands are economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics and, therefore, by definition is a remnant pursuant to Chapter 171, HRS.
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (3) 6-9-002: 001 and 002, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
4. Authorize the subdivision and consolidation of the subject remnant by the Applicant.
5. Subject to the Applicant fulfilling all of the Applicant Requirements listed above,

authorize the sale of the subject remnant to One Puako Bay Associates, LLC, covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:


- A. The standard terms and conditions of the most current deed or grant (remnant) form, as may be amended from time to time;
- B. Review and approval by the Department of the Attorney General; and
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent 

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

✓

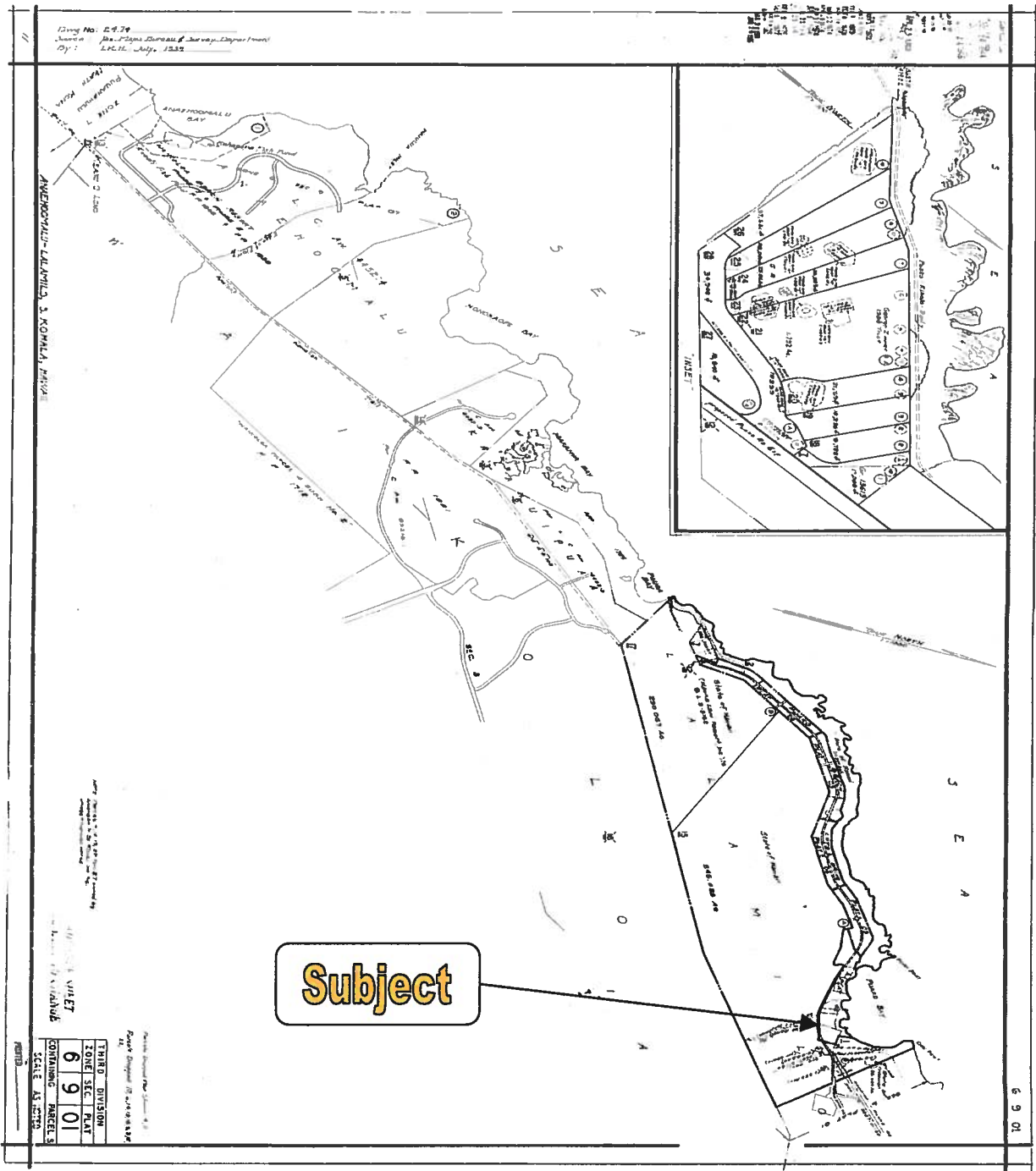


EXHIBIT A

OCEAN

Applicant's property

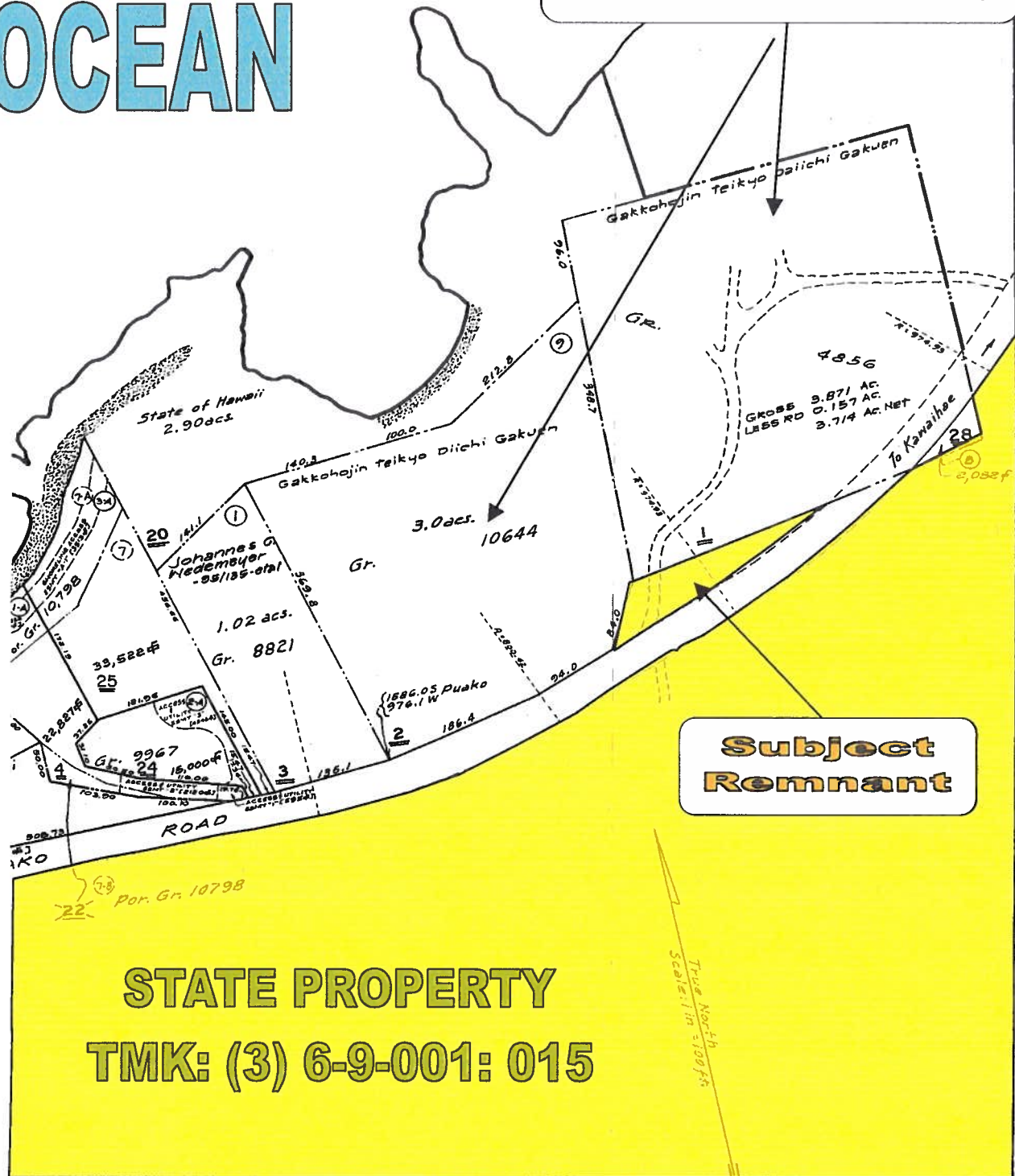


EXHIBIT A